

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

WILLIAM ANGELO LATTEN, JR.,

Plaintiff,

v.

J. BENAVIDEZ, et al.,

Defendants.

No. 2:23-cv-1879-DAD-SCR

ORDER

FINDINGS AND RECOMMENDATIONS

Plaintiff is an incarcerated person representing himself in this civil rights action filed pursuant to 42 U.S.C. § 1983. This case is proceeding on Eighth Amendment excessive force claims against defendants Salinas-Gonzalez and Ortiz-Garcia and an Eighth Amendment failure to protect claim against defendant Warstler. ECF No. 18 (screening order). Currently pending before the court is defendants' motion to dismiss the second amended complaint on the basis that the claims are barred by Heck v. Humphrey, 512 U.S. 477 (1994). ECF No. 38. Plaintiff has not filed an opposition and the time to do so has expired. For the reasons explained in further detail below, the undersigned recommends denying the motion to dismiss.

I. Factual and Procedural History

In the second amended complaint,¹ plaintiff alleges that while incarcerated at the

¹ The amended complaint does not indicate what date any of the events occurred. However, plaintiff's original complaint asserted that these same events occurred on January 20, 2023. Compare ECF No. 17 with ECF No. 1.

1 California Medical Facility (“CMF”), he was punched in the face by Correctional Officer Ortiz-
2 Garcia. ECF No. 17 at 4. After raising his hands with palms facing out to show his lack of
3 resistance, plaintiff was punched again in the face with a closed fist by defendant Ortiz-Garcia.
4 ECF No. 17 a 4. Correctional Officer Salinas-Gonzalez also punched plaintiff repeatedly in the
5 face. Id. Defendant Salinas-Gonzalez told plaintiff to “cuff up” and then immediately grabbed
6 plaintiff’s legs and forced him to the ground. Id. Salinas-Gonzalez then struck plaintiff in the
7 face and head. Id. Correctional Officer Warstler watched the use of force on plaintiff by the
8 other two defendants and did not intervene. ECF No. 17 at 5. Plaintiff denies resisting defendant
9 Salinas Gonzalez’s application of handcuffs to him. Id.

10 Defendants seek dismissal of the second amended complaint on the grounds that the
11 claims are barred by Heck v. Humphrey, 512 U.S. 477 (1994). ECF No. 38-1. In support of the
12 motion, defendants request that the court take judicial notice of records from the Solano County
13 Superior Court demonstrating that plaintiff entered a no contest plea to obstructing or resisting an
14 executive officer in the performance of their duties by means of threats, force, or violence in
15 violation of California Penal Code § 69. ECF No. 38-2 at 11-17. As part of this plea, plaintiff
16 stipulated to the following factual basis to support his plea: “On January 20, 2023 the [plaintiff]
17 while a confined person serving a prison sentence at the California Medical Facility in the County
18 of Solano, did willfully and unlawfully resist lawful orders by Correctional Officer Y. Salinas
19 Gonzalez using force.” ECF No. 38-2 at 23 (transcript of plea hearing). Defendants argue that
20 these stipulated facts show that “Plaintiff was the true aggressor, attacking Defendants, while
21 Defendants’ response was lawful.” ECF No. 38-1 at 7. Defendants contend that “[t]his case
22 would, in effect, re-litigate Plaintiff’s conviction for his January 20, 2023 attack, on which he
23 pleaded no contest in Solano County, stipulating that he unlawfully resisted Officer Salinas-
24 Gonzalez’s lawful orders while using force.” ECF No. 38-1 at 7. Since plaintiff’s conviction has
25 not been invalidated, defendants assert that his § 1983 claims are barred by Heck. ECF No. 38-1
26 at 6.

27 II. Legal Standards

28 A motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) tests the legal

1 sufficiency of the claims alleged in the complaint. Ileto v. Glock Inc., 349 F.3d 1191, 1199-1200
 2 (9th Cir. 2003). Dismissal under Rule 12(b)(6) may be based on either: (1) lack of a cognizable
 3 legal theory; or (2) insufficient facts under a cognizable legal theory. Chubb Custom Ins. Co. v.
 4 Space Sys./Loral, Inc., 710 F.3d 946, 956 (9th Cir. 2013). In considering a motion to dismiss, the
 5 court must accept as true the allegations of the complaint in question, Hospital Bldg. Co. v.
 6 Trustees of Rex Hospital, 425 U.S. 738, 740 (1976), construe the pleading in the light most
 7 favorable to the party opposing the motion, and resolve all doubts in the pleader's favor, Jenkins
 8 v. McKeithen, 395 U.S. 411, 421 (1969). Additionally, pro se pleadings are held to a less
 9 stringent standard than those drafted by lawyers. Haines v. Kerner, 404 U.S. 519, 520 (1972) (per
 10 curiam). In ruling on a motion to dismiss pursuant to Rule 12(b)(6), the court "may generally
 11 consider only allegations contained in the pleadings, exhibits attached to the complaint, and
 12 matters properly subject to judicial notice." Outdoor Media Group, Inc. v. City of Beaumont, 506
 13 F.3d 895, 899 (9th Cir. 2007) (citation and quotation marks omitted).

14 In Heck v. Humphrey, 512 U.S. 477 (1994), the Supreme Court held that a state prisoner
 15 may not bring a civil suit for damages pursuant to 42 U.S.C. § 1983 which questions the validity
 16 of his underlying conviction until he has had the conviction set aside. However, where "a
 17 successful section 1983 action for excessive force would not necessarily imply the invalidity of
 18 [plaintiff's] arrest or conviction, Heck does not preclude [plaintiff's] excessive force claim."
 19 Smithart v. Towery, 79 F.3d 951, 952-53 (9th Cir. 1996) (per curiam).

20 **III. Analysis**

21 The court first addresses defendants' request for judicial notice of "the Court filings,
 22 orders, plea agreement, and transcripts in Superior Court of California, Solano County Case No
 23 F23-00402" supporting their motion to dismiss. Rule 201 of the Federal Rules of Evidence
 24 allows a court to take judicial notice of "a fact that is not subject to reasonable dispute" which is
 25 "generally known within the trial court's territorial jurisdiction," or "can be accurately and readily
 26 determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid.
 27 201(b). Under this rule, judicial notice is appropriate for publicly available records such as
 28 hearing transcripts from other court proceedings. Foster Poultry Farms v. Alkar-Rapidpak-MP

1 Equip., Inc., 868 F. Supp. 2d 983, 990 (E.D. Cal. 2012). Judicial notice of the court records
2 submitted by defendants is appropriate.

3 Turning to the merits of defendants' motion to dismiss, the recent Ninth Circuit decision
4 in King v. Villegas, --- F.4th ----, 2025 WL 2950508 (Oct. 20, 2025), controls the outcome. In
5 King, the Ninth Circuit held that evidence of a nolo contendere plea was not admissible under
6 Rule 410(a) of the Federal Rules of Evidence to prove that a § 1983 excessive force claim is Heck
7 barred. As result, the district court erred in considering "both evidence of 'a nolo contendere
8 plea' and 'statements made during a proceeding on' that plea 'in a civil case' against 'the
9 defendant who made the plea'" under Rule 410(a). King, 2025 WL 2950508 at *5. The Ninth
10 Circuit emphasized that "[n]either King's plea nor statements during the hearing culminating in
11 his nolo plea constituted admissions of the factual basis for the plea." Id. Thus, the district court
12 erred in admitting plaintiff's nolo plea as well as the stipulated factual basis supporting the plea in
13 determining whether the § 1983 claims were Heck barred. Based on this precedential decision,
14 defendants are foreclosed from relying on plaintiff's no contest plea in the Solano County
15 Superior Court as evidence that his claims in this case are Heck barred. Accordingly, the
16 undersigned recommends denying defendants' motion to dismiss.

17 IT IS HEREBY ORDERED that defendants' request for judicial notice (ECF No. 38-2) is
18 granted.

19 IT IS FURTHER RECOMMENDED that:

- 20 1. Defendants' motion to dismiss (ECF No. 38) be denied; and,
21 2. Defendants be required to answer plaintiff's second amended complaint within 30 days of
22 an order adopting these Findings and Recommendations, if they are adopted.

23 These findings and recommendations are submitted to the United States District Judge
24 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty one days
25 after being served with these findings and recommendations, any party may file written
26 objections with the court and serve a copy on all parties. Such a document should be captioned
27 "Objections to Magistrate Judge's Findings and Recommendations." Any response to the
28 objections shall be filed and served within fourteen days after service of the objections. The

1 parties are advised that failure to file objections within the specified time may waive the right to
2 appeal the District Court's order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

3 DATED: November 24, 2025

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SEAN C. RIORDAN
UNITED STATES MAGISTRATE JUDGE